



Office of
the Schools
Adjudicator

Determination

Case reference: VAR1410

Admission authority: The Interim Executive Board of Governors of Virgo Fidelis Convent Senior School, Croydon

Date of decision: 20 August 2020

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the governing board of Virgo Fidelis Convent Senior School for Virgo Fidelis Convent Senior School for September 2020.

I determine that the Published Admission Number (PAN) for Year 7 be reduced from 120 places to zero.

In light of the urgency of this proposed variation I have not considered the arrangements under section 88I(5) of the Act, so nothing in this determination should be taken as an indication that the arrangements as a whole do or not conform with the requirements relating to admissions.

The referral

1. The Interim Executive Board of Governors of Virgo Fidelis Convent Senior School (the school) has referred a proposal for a variation to the school's admission arrangements for September 2020 to the Office of the Schools Adjudicator. The school is a Roman Catholic voluntary aided secondary school for girls aged 11 to 18 in Upper Norwood in the London Borough of Croydon.

2. The proposed variation is that the Published Admission Number (PAN) for Year 7 be reduced from 120 places to zero.

Jurisdiction

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that: “where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must ... (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations”.

4. I am satisfied that the proposed variation is within my jurisdiction.

5. I am also satisfied that it is within my jurisdiction to consider the determined arrangements under section 88I of the Act as they have come to my attention and to determine whether or not they conform with the requirements relating to admissions and if not in what ways they do not so conform. However, I have decided not to exercise my power to consider the arrangements under section 88I in this case in view of the urgency of this application.

Procedure

6. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).

7. The documents I have considered in reaching my decision include:

- a. the referral from the Interim Executive Board of Governors dated 28 July 2020 and supporting documents;
- b. the determined arrangements for September 2020 and the proposed variation to those arrangements;
- c. a map showing the location of the school and other relevant schools; and
- d. confirmation that an email has been sent by the local authority on behalf of the school notifying the appropriate bodies about the proposed variation.

The proposed variation

8. The school is a Roman Catholic voluntary aided secondary school for girls aged 11–18 located in Upper Norwood in the London Borough of Croydon. Mother Saint Mary (Henriette le Forestier d'Osseville; 1803–1858), who had arrived in the United Kingdom in September 1848 with the intention of establishing a school under the patronage of Cardinal Wiseman, acquired the school site in 1857. The current building was designed by William Wardell and built in phases in the gothic style to accommodate the school. The convent is

part of the Congregation of Our Lady of Fidelity, an international Roman Catholic religious organisation, founded in France in 1831.

9. The school has a PAN of 120, but has only admitted 77 girls in 2017, 83 girls in 2018 and 52 girls in 2019. The following table sets out the numbers of admissions and preferences. I have been informed that 50 girls have accepted an offer of a place and are due to start in Year 7 this September.

September	PAN	Preferences						Number of children admitted at Y7
		1st	2nd	3 rd	4th	5th	6th	
2017	120	32	34	43	45	22	15	77
2018	120	28	37	33	34	22	25	83
2019	120	19	29	32	30	28	18	52

10. There have been significant problems with the school buildings and with the school itself for some time; however, the extent and seriousness of these problems have recently come to a head. It is clear that immediate action is required on many fronts. An Interim Executive Board (IEB) was established on 23 June 2020 following the decision of the local authority and the Archdiocese of Southwark (the diocese) to request the removal of the existing governing board. The IEB produced a report on 17 July 2020 which is marked 'Restricted' and 'Confidential'. I have read the report carefully and taken into account its contents. Ordinarily, I would extract relevant paragraphs from a document I have relied upon in making my decision and set them out in this determination, but because of the confidentiality of the report, I have not done this.

11. Suffice to say that, since the admission arrangements for the school were determined, further information has emerged, and continues to emerge, which has led to the school identifying a major change of circumstances necessitating a variation to the admission arrangements. This is amongst other urgent actions which need to be taken. Factors which have led to the application for a variation are as follows:

- the governing board has been replaced by the IEB;
- a report commissioned by the diocese has been produced which concludes that the number and magnitude of the fire concerns relating to the school buildings are such that the school is not safe or fit for occupation in September, even if the main school building is for the most part unoccupied;
- pupil attainment is low;
- the school roll continues to fall; and
- there is a substantial budget deficit.

12. As the fire safety report indicates a risk to the safety of pupils, it is clear that immediate action must be taken to remove that risk. The IEB, in discussion with the local authority and the diocese, has decided to take steps to ensure that pupils are not admitted to an environment where their safety cannot be guaranteed. The school considered that the PAN reduction proposed would enable places to be withdrawn from pupils due to start in Year 7 in September. As I will explain, a PAN reduction will not have this effect. It will, however, enable the school to ameliorate the risk to some degree.

13. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed, that is varied, if there is a major change of circumstance or certain other limited and specified circumstances. The school has identified a major change of circumstances. I will consider below whether the variation requested is justified by the change in circumstances.

14. Paragraph 3.6 of the Code also requires that appropriate bodies in the relevant area be notified of a proposed variation. The local authority has confirmed to me that it has acted on behalf of the school in notifying the schools and other bodies required to be notified of the proposed variation. The authority has provided me with details of the wording used in the notifications. In view of the urgency of this application, it has been necessary for the notifications to be sent during the school summer holidays. As far as I am aware, no views have been expressed on the proposed variation by any of the bodies who have been notified. This may however be because the schools are on holiday, and nobody has read the notifications. Whilst I cannot be satisfied that all relevant bodies have actually seen the notifications, I do find that the appropriate procedures have been followed. For the reasons I will explain below, it is necessary that the proposed variation take effect before the beginning of term in September.

Consideration of proposed variation

15. When this application was received, it was clear that the school, local authority and the diocese considered that the effect of a variation reducing the PAN for Year 7 from 120 to zero would be to enable the school to withdraw places from those due to start school in September. This was the desired effect. There is wide agreement between the IEB and others that the school buildings are currently not in a state in which it would be safe to have these children onto the premises. The local authority is in the process of contacting parents whose children have been offered a place in Year 7 and attempting to arrange places for these children at other schools. This is an entirely sensible and appropriate action for the local authority to take and no doubt many parents – when apprised of the situation at the school – will accept the offers made of places elsewhere. However, it has been explained to the parties that the approval of the proposed variation by the adjudicator will not itself have the effect of withdrawing offers of places from those who have accepted. The Code sets out the circumstances in which a school place may be withdrawn, and those circumstances do

not include a PAN reduction before the beginning of the term in which a child is due to start school.

16. It has now been understood and accepted by the school and the local authority that the proposed PAN reduction will not have the effect originally intended. The effect of my approving the proposed variation is that the school will not be required to offer places to any new applicants for Year 7. As matters stand currently, if a parent had made an application for a place at the school in Year 7 on any date before this determination had been made, a place would have had to be offered because the school has 70 vacant places according to the information I have and because in a normal year of entry places cannot be refused below the PAN which at that time was 120.

17. It would be a nonsense for the school to have to offer a place to a child knowing that the buildings are so unsafe that the child would be at risk attending the school, and that once a place had been offered and accepted the school and local authority would immediately have to persuade the parent to apply for and accept a place at a different school. I have no hesitation in concluding, therefore, that a variation is needed. Whilst it will not address all of the serious issues arising from the change in circumstances identified by the school, it will address the problems which would be faced by the school should it receive any further applications for places in Year 7.

18. Unusually in this case, I have not been provided with information about the availability of alternative provision, ease of access to that provision, or the likelihood of pupils securing alternative places at other suitable schools. This would ordinarily be significant in determining whether it is appropriate to reduce a school's PAN. A PAN reduction for any school will cause a reduction in the availability of school places locally. However, this school has been undersubscribed significantly for a number of years, so parents must be finding suitable places for their children elsewhere. Also, there is no alternative in this case. The school cannot make provision safely on its premises for its Year 7 pupils and must be able to lawfully refuse to admit any further applicants.

19. Also, which again is unusual, I have not been able to assess the impact of the proposed PAN reduction on other schools, levels of oversubscription locally, the pattern of admissions in recent years or the projected pupil numbers in the area. There have been no responses from any of the schools or other bodies who have been notified of the proposed variation however this may be because they have not seen the notification or had sufficient chance to assess its implications and compose a response. Nevertheless, as I have said in the paragraph above, the school has no alternative other than to refuse to admit any further applicants to Year 7, and on this basis I approve the proposed variation to reduce the PAN for Year 7 from 120 to zero.

20. I should add in the interests of completeness (although this is no part of my consideration of the case) that I understand that the IEB is confident that girls in other year groups in the school can be accommodated safely in parts of the building; my

understanding is that those parts which are safe could not also accommodate new Year 7 joiners.

Summary

21. I find that, because the school buildings are unsafe, a variation to the PAN is needed to allow the school to refuse to admit any further applicants to Year 7. For this reason, I approve the proposed variation to reduce the PAN for Year 7 from 120 to zero.

Determination

22. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the governing board of Virgo Fidelis Convent Senior School for Virgo Fidelis Convent Senior School for September 2020.

23. I determine that the Published Admission Number (PAN) for Year 7 be reduced from 120 places to zero.

24. In light of the urgency of this proposed variation I have not considered the arrangements under section 88I(5) of the Act, so nothing in this determination should be taken as an indication that the arrangements as a whole do or not conform with the requirements relating to admissions.

Dated: 20 August 2020

Signed:

Schools Adjudicator: Dr Marisa Vallely